

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BRANDON W. KIMBLE, #2201349

§

VS.

§

CIVIL ACTION NO. 6:19cv421

LORIE DAVIS, ET AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Brandon W. Kimble, a former prisoner of the Texas Department of Criminal Justice (TDCJ), proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On March 15, 2022, Judge Mitchell issued a Report (Docket No. 12) recommending that Plaintiff's lawsuit be dismissed with prejudice for the failure to state a claim upon which relief may be granted and for Plaintiff's failure to prosecute his case by filing an updated notice of a change of address. A copy of this Report was sent to Plaintiff at his last-known address, with an acknowledgment card. The docket reflects that the Report was returned as "undeliverable," with a notation of "RTS-Discharged" (Docket No.13). To date, no objections to the Report have been filed.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten days to fourteen days).


Here, Plaintiff has not filed objections and, as Judge Mitchell found, failed to file an updated mailing address. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.>").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 12) as the findings of this Court. Therefore, it is

ORDERED that the above-styled lawsuit is **DISMISSED** with prejudice for Plaintiff's failure to state a claim upon which relief may be granted and the failure to prosecute. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 31st day of **March, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE